

DISTRICT COURT, WELD COUNTY, STATE OF COLORADO 901 9 th Ave., P.O. Box 2038 (80632), Greeley, CO 80631	DATE FILED July 23, 2026 10:08 AM FILING ID: DCA7F7397CFFB CASE NUMBER: 2026CV30878
In re Records Request Dated May 27, 2026 TOWN OF HUDSON, COLORADO Applicant, and concerning: KUSA CHANNEL 9, a/k/a 9NEWS, Interested Party.	▲ COURT USE ONLY ▲
<i>Attorneys for Applicant:</i> Attorneys: Hilary M. Graham, Reg. No. 33991 Nicholas A. Hartman, Reg. No. 53999 Firm: Hoffmann, Parker, Wilson & Carberry, P.C. 511 16 th Street, Suite 610 Denver, CO 80202 Phone: (303) 825-6444 E-mail: hmg@hpwclaw.com ; nah@hpwclaw.com	Case No.: Division:
APPLICATION PERMITTING THE TOWN OF HUDSON TO RESTRICT DISCLOSURE OF CERTAIN DOCUMENTS PURSUANT TO COLO. REV. STAT. §§ 24-72-204(3)(A)(II), 24-72-204(3)(A)(XIII) AND 24-72-204(6)(A) OF THE COLORADO OPEN RECORDS ACT, COLO. REV. STAT. § 24-72-200.1, ET SEQ.	

Applicant, the Town of Hudson, Colorado through its Official Custodian of Public Records (the "Town"), by its undersigned counsel, Hoffman, Parker, Wilson & Carberry, P.C., hereby applies to this Court pursuant to Colo. Rev. Stat. §§ 24-72-204(3)(a)(II), 24-72-204(3)(a)(XIII) and 24-72-204(6)(a) for an order permitting the Town to restrict disclosure of the pre-disciplinary notices provided to two now-former employees of the Town, as requested in a May 27, 2026, public records request by Steve Staeger of KUSA Channel 9 ("9News"), a copy of which is attached hereto as **Exhibit A** and incorporated herein (the "CORA Request").

Based on the language of the Colorado Open Records Act, Colo. Rev. Stat. § 24-72-200.1, *et seq.* ("CORA"), the Town seeks an order permitting the Town to restrict such

disclosure for three reasons: (1) pursuant to the personnel file exemption under Colo. Rev. Stat. § 24-72-204(3)(a)(II); (2) pursuant to the common law deliberative process privilege under Colo. Rev. Stat. § 24-72-204(3)(a)(XIII); and (3) because disclosure would do substantial injury to the public interest pursuant to Colo. Rev. Stat. § 24-72-204(6)(a). As grounds therefore, the Town states as follows:

I. INTRODUCTION AND GENERAL ALLEGATIONS

A. Parties

1. The Town is a Colorado home rule municipality located in Weld County, Colorado, with a Town Hall located in Weld County, and the Town is a political subdivision as defined by Colo. Rev. Stat. § 24-72-202(5).

2. Sarah Farthing is the Town Clerk of the Town and Official Custodian of public records for the Town, as that term is defined by Colo. Rev. Stat. § 24-72-202(5).

3. Steve Staeger ("Staeger") is a reporter for 9News, a television station that reports on matters involving the Town, and Staeger on behalf of 9News is the applicant seeking the records at issue in this matter.

B. Jurisdiction and Venue

4. This Court has jurisdiction over the subject matter of this matter pursuant to the specific provisions of Colo. Rev. Stat. §§ 24-72-204(3)(a)(II), 24-72-204(3)(a)(XIII) and 24-72-204(6).

5. Venue is proper in this Court pursuant to Colo. R. Civ. P. 98 and Colo. Rev. Stat. § 24-72-204(6), because the records in question are located within the Town Hall of the Town of Hudson, which is within Weld County, Colorado.

C. General Allegations

6. On May 8, 2026, Town Manager Bryce Lange issued notices of pre-disciplinary meetings (the "Notices") to the then-Town Police Chief Scott Sedgwick ("Sedgwick") and Town Police Lieutenant Dustin Trujillo ("Trujillo" and, collectively with Sedgwick, the "Employees").

7. On May 11, 2026, Trujillo resigned from the Town, and on May 12, 2026, Sedgwick resigned from the Town.

8. On May 15, 2026, 9News requested the Employees' resignation letters, and the Town released them. Those are attached hereto as **Exhibit B** and incorporated herein.

9. On May 27, 2026, 9News sent the CORA Request to the Town, requesting "pre-disciplinary letters" sent to Sedgwick and Trujillo, which the Town interpreted to mean the Notices. The Notices are the only Town records that exist that are responsive to the CORA Request.

10. CORA requires that the custodian of records "shall deny the right of inspection" to personnel file records. Colo. Rev. Stat. § 24-72-204(3)(a)(II).

11. "Personnel file" is defined by CORA, in relevant part, as "home addresses, telephone numbers, financial information, a disclosure of an intimate relationship filed in accordance with the policies of the General Assembly, other information maintained because of the employer-employee relationship, and other documents specifically exempt from disclosure pursuant to this part 2 or any other provision of law." Colo. Rev. Stat. § 24-72-202(4.5).

12. "Personnel file" is further specifically defined *not* to include "applications of past or current employees, employment agreements, any amount paid or benefit provided incident to termination of employment, performance ratings, final sabbatical reports required pursuant to

section 23-5-123, or any compensation, including expense allowances and benefits, paid to employees by the state, its agencies, institutions, or political subdivisions." *Id.*

13. The Town interprets the "performance ratings" exception to CORA's definition of "personnel file" narrowly. For example, when responding to a CORA request for an employee's performance review, the Town redacts the non-numeric portions of such review, which typically amounts to qualitative and subjective feedback to the employee from their supervisor. *See City of Boulder, Co. v. Avery*, 2002 WL 31954865 at *3 (D. Colo. 2002) (allowing the redaction of certain information that impinges on an employee's privacy from a report about the employee's job performance).

14. The contents of the Notices, if delivered verbally by the Town Council as the Employees' supervisor, would be subject to section 402(4)(f)(I) of the Open Meetings Law, Colo. Rev. Stat. § 24-6-401, *et seq.* (the "OML"), which protects candid employee performance discussions from public disclosure unless the employee who is the subject of the discussion requests that it occur in an open meeting.

15. The Notices are maintained by the Town as a part of the Employees' respective personnel files because of the Town's employer-employee relationship with the Employees.

16. After 9News requested the Notices, the Town Manager asked the Employees if they consented to disclosure of the Notices, and both stated they did not.

17. CORA also protects from disclosure "[r]ecords protected under the common law governmental or 'deliberative process' privilege, if the material is so candid or personal that public disclosure is likely to stifle honest and frank discussion within the government," which such records "shall" be withheld by the custodian. Colo. Rev. Stat. §§ 24-72-204(3)(a),

(3)(a)(XIII). The custodian shall also provide "shall provide the applicant with a sworn statement specifically describing each document withheld, explaining why each such document is privileged, and why disclosure would cause substantial injury to the public interest" when employing this reason for denial. *Id.*

18. Pursuant to CORA, on June 1, 2026, the Town sent a letter to 9News, attached hereto as **Exhibit C** and incorporated herein (the "Denial Letter"), denying the CORA Request pursuant to the personnel file exemption under Colo. Rev. Stat. § 24-72-204(3)(a)(II) and the deliberative process privilege codified by Colo. Rev. Stat. § 24-72-204(3)(a)(XIII), along with a sworn statement specifically describing each document withheld and its privilege as required by Colo. Rev. Stat. § 24-72-204(3)(a)(XIII).

19. In the Denial Letter, the Town stated that the Notices were maintained as part of the Employees' personnel files as "other information maintained because of the employer-employee relationship" and the request must be denied. Exhibit C.

20. In the Denial Letter, the Town also stated that the Notices were so candid or personal that public disclosure would likely stifle honest and frank discussion between the Town Manager and his employees when discussing personnel matters and performance issues, and therefore the use of CORA's deliberative process privilege was proper and release of the records was required to be denied. Exhibit C.

21. In the Denial Letter, the Town also stated that the Notices were pre-decisional, because the Employees resigned before the Town took any disciplinary action against either of them. Exhibit C.

22. On July 1, 2026, Staeger sent an email the Town Clerk, attached hereto as **Exhibit D** and incorporated herein, disagreeing with the Town's decision to not release the records and demanded that the Town "reconsider its denial and provide the requested records."

23. On July 9, 2026, the Town informed Staeger via email that it would be seeking a court order permitting the Town to restrict disclosure of the Notices. That email is attached hereto as **Exhibit E** and incorporated herein.

24. The Town now files this Petition on the basis that the Notices are protected as personnel files under Colo. Rev. Stat. § 24-72-204(3)(a)(II) and the deliberative process privilege codified by Colo. Rev. Stat. § 24-72-204(3)(a)(XIII).

II. APPLICATION TO RESTRICT DISCLOSURE

A. Disclosure of the Notices Would Directly Contravene the Personnel File Exemption Pursuant to Colo. Rev. Stat. § 24-72-204(3)(a)(II)

25. The Town incorporates the foregoing allegations as if fully set forth herein.

26. The Employees, as well as the Town Manager, had an expectation that the information relayed to and from the parties would be kept confidential in accordance with Colo. Rev. Stat. § 24-72-204(3)(a)(II) and Colo. Rev. Stat. § 24-72-204(3)(a)(XIII).

27. The Town Manager must be able to frankly and candidly communicate potential issues with performance with his employees, and he owes his employees the opportunity to see the allegations presented against them as a matter of due process and general good management.

28. The Employees, by way of their refusal to consent to the release of the Notices to 9News, clearly have their own legitimate expectations of privacy in the Notices.

29. If the Notices are required to be released, the Town Manager will no longer be able to effectively manage his employees, because all such records attempting to create a fair,

equitable process for Town employees facing potential disciplinary action, whether such allegations are true or not, will now be at risk of becoming public records.

30. Such a result defeats the purpose of the personnel file exemption.

31. Courts must consider the plain language of a statute, giving words their usual and ordinary meanings. *People v. Barnett*, 490 P.3d 1000, 1002 (Colo. Ct. App. 2020) (internal citations omitted). They further must "read and consider the statute as a whole to give consistent, sensible, and harmonious effect to all parts," and "determine the meaning of the statute by giving effect to the legislature's intent." *Id.* Courts must "avoid interpretations that would render words superfluous." *Id.*

32. The definition of "personnel file" is broad in its inclusion and narrow in its exclusion. *See* Colo. Rev. Stat. § 24-72-202(4.5).

33. For instance, "financial information" is included in its definition, but "compensation" is not. *Id.* Clearly, the General Assembly, at least insofar as it related to money matters, believed that financial information could be broadly withheld but that a specific piece of an employee's financial information, compensation, should not.

34. This same logic applies to disciplinary records, as those are maintained because of the employer-employee relationship. *Id.*

35. The General Assembly made clear that performance ratings are not a part of the personnel file. *See Id.* Therefore, it must be true that other documents related to an employee's performance, like performance reports, memoranda from supervisors and, to be sure, pre-disciplinary notices from the administrative head of the governmental entity are therefore part of

the personnel file. If not, then this specific exemption for performance ratings would be unnecessary since entire performance files would be available for review.

36. 9News desires the Court to read over the open-ended nature of items belonging in the personnel file and the closed-ended nature of items not belonging in the personnel file, and instead reverse this, such that information within the personnel file is very limited while information not within it is near unlimited.

37. 9News seeks an absurd result that would render the definition of "personnel file" superfluous and defeat the General Assembly intent to delineate a clear list of items that do not belong in the personnel file from a broad, open-ended inclusion in the personnel file of "other information maintained because of the employer-employee relationship." *See Barnett*, 490 P.3d at 1002; *see also* Colo. Rev. Stat. § 24-72-202(4.5).

38. Accordingly, the Town through its custodian of records hereby requests that this Court permit the custodian to restrict disclosures of the Notices pursuant to Colo. Rev. Stat. § 24-72-204(3)(a)(II).

B. Disclosure of the Documents requested in the Records Request Would Cause Substantial Injury to the Public Interest Pursuant to Colo. Rev. Stat. § 24-72-204(3)(a)(XIII).

39. The Town incorporates the foregoing allegations as if fully set forth herein.

40. The Employees had a legitimate expectation that information related to their performance would be kept confidential in accordance with Colo. Rev. Stat. § 24-72-204(3)(a)(II). The information presented in the Notices contains allegations against the Employees and is used for the specific purpose of maintenance of the employer-employee

relationship by the Town Manager to frankly and candidly inform his employees of the allegations brought against them, while giving them an opportunity to respond.

41. The Town has withheld the Notices in accordance with the deliberative process privilege, Colo. Rev. Stat. § 24-72-204(3)(a)(XIII), in which public records may be protected and withheld if the material is so candid or personal that public disclosure is likely to stifle honest and frank discussion within the government.

42. The deliberative process privilege is used to protect documents that are "so candid or personal in nature that public disclosure is likely in the future to stifle honest and frank communications within the agency." *Land Owners United, LLC v. Waters*, 293 P.3d 86, 96 (Colo. App. 2011) (internal citations omitted). This privilege typically covers "recommendations, advisory opinions, draft documents, proposals, suggestions, and other subjective documents that reflect the personal opinions of the writer rather than the policy of the agency." *City of Colorado Springs v. White*, 967 P.2d 1042, 1053 (Colo. 1998).

43. The Notices, generally speaking, consist of a recital of allegations by the Town Manager against the Employees, and conclude with a short paragraph discussing how the Employees may respond to the allegations before further action is taken. Nothing contained therein constitutes fact. Rather, it specifically relays the opinion of the Town Manager (that he has heard of certain unacceptable actions potentially committed by the Employees) and suggests that they have an opportunity to respond before a decision is made on the merits.

44. These Notices, just as any other notice of a similar nature sent by the Town Manager to his employees would be, are the core of candid, personal discussions of employee management. The allegations are just that: allegations. The Town Manager must be given an

opportunity to frankly, candidly and honestly present the allegations to the Employees, and the Employees must be given an opportunity to frankly, candidly and honestly answer them.

45. Therefore, the Town Clerk determined that the deliberative process privilege applied. Disclosure of them, alternatively, "would expose an agency's decision-making process in such a way as to discourage discussion within the agency and thereby undermine its ability to perform its functions." *Land Owners United, LLC* 293 P.3d at 96.

46. If these Notices are disclosed, the Town Manager will no longer have any ability to have these frank, candid discussions without fearing for the privacy of his employees by the disclosure of these or similar notices. They must be protected.

47. Documents covered under the deliberative process privilege must also be predecisional and deliberative. *City of Colorado Springs v. White*, 967 P.2d 1042, 1052 (Colo. 1998).

48. The Notices are predecisional and deliberative in nature.

49. By their very title, they are *pre-disciplinary*, implying that more fact-finding and deliberation needed occur before the Town came to a decision – a decision the Town ultimately never made, because the Employees both resigned. They are deliberative because they inform the Employees of the allegations against them and inform them of the opportunity to respond to and refute the allegations, reflecting the "give-and-take of the consultative process." *White*, 967 P.2d at 1052 (internal citations omitted).

50. Disclosure of the Notice will stifle honest and frank discussion at the Town, because all of its employees – from the Town Manager issuing such similar notices, to employees such notices are about, to the employees that are informing the Town Manager of the

allegations that may make it into such notices – will no longer have any sort of legitimate expectation of privacy to frankly and candidly discuss issues with employees at the Town.

51. Because the Notices are predecisional and deliberative, and because release of them will stifle honest and frank discussions within the Town, the deliberative process privilege must apply here.

52. Accordingly, the Town through its custodian of records pursuant to Colo. Rev. Stat. § 24-72-204(3)(a)(XIII) hereby requests this Court permit the custodian to restrict disclosure of the Notices.

C. Disclosure of the Notices Would Do Substantial Injury to the Public Interest Pursuant to Colo. Rev. Stat. § 24-72-204(6)(a) Because the Employees and the Town Manager have a Legitimate Expectation of Non-Disclosure

53. The Town incorporates the foregoing allegations as if fully set forth herein.

54. At no time prior to the Town Manager sending the Notices to the Employees did the Employees provide any waiver of confidentiality or agree that such information would be publicly disclosed.

55. After 9News requested the Notices, the Town Manager asked the Employees if they consented to the Notices' disclosure. The Employees said they did not.

56. Given the nature of the Notices and the personal allegations contained therein, which were solicited from Town employees and told to the Town Manager, each Employee had an expectation of privacy for this highly personal information. *See Todd v. Hause*, 371 P.3d 705, 713 (Colo. App. 2015) ("expectations of privacy are legitimate if the information which the state possesses is highly personal or intimate") (internal citations omitted).

57. The personnel file exemption of CORA under Colo. Rev. Stat. § 24-72-204(3)(a)(II), by way of allowing placement of certain information maintained because of the employer-employee in the personnel file, which shall not be disclosed, provide the Employees an expectation of privacy for certain confidential information related to their employment.

58. For this reason, disclosure of the Notices, if publicly released, will have a chilling effect on the Town's need for frank and candid reporting of allegations that may require discipline, or not, and will affect the trust that exists between the Town Manager and his employees, as well as between employees themselves, and call into question the effectiveness of the Town's ability to make employment decisions.

59. Pursuant to Colo. Rev. Stat. § 24-72-204(6)(a), the official custodian may apply to the district court for an order permitting them to restrict such disclosure or determine if disclosure is prohibited:

[I]f, in the opinion of the official custodian of any public record, disclosure of the contents of said record would do substantial injury to the public interest, notwithstanding the fact that said record might otherwise be available to public inspection.

60. The Employees have a right to confidentiality that prevents disclosure of the Notices.

61. Section § 24-72-204(6)(a), Colo. Rev. Stat., has been construed to include protection of information collected by the government, the disclosure of which would violate an individual's right to privacy. *See Todd*, 371 P.3d at 711.

62. When the right of confidentiality is invoked to prevent disclosure of personal information, a court must engage in a three-part balancing inquiry:

- (1) Does the party seeking to come within the protection of right to confidentiality have a legitimate expectation that the materials or information will not be disclosed?
- (2) Is disclosure nonetheless required to serve a compelling state interest?
- (3) If so, will the necessary disclosure occur in that manner which is least intrusive with respect to the right of confidentiality?

Martinelli v. District Court In and For City and County of Denver, 612 P.2d 1083, 1091 (Colo. 1980); *see also Denver Post Corp. v. University of Colorado*, 739 P.2d 874 (Colo. App. 1987).

63. The information contained in the Notices – information regarding unsubstantiated allegations against the Employees that may lead to discipline at work – is "highly personal or sensitive" information and therefore objectionable to a reasonable person of ordinary sensibilities. *Todd*, 371 P.3d at 713. Furthermore, no waiver of confidentiality was provided by the Employees, and the employees were not provided with an opportunity to determine whether discussions regarding their employment would be held in a public or private setting, as is allowed under the OML.

64. No interest exists to override the privacy interests of the Employees. 9News has already obtained the Employees' resignation letters. There is nothing more to be gained here by 9News other than violating the Town's ability to manage its employees candidly and effectively.

65. Because the Notices consist entirely allegations directed at the Employees by the Town Manager, the Town's custodian of records cannot provide these Notices in a manner that also preserves the Employees' rights to confidentiality.

66. The Notices also implicate personal opinions and comments from peer and subordinate employees in forming the allegations against the Employees. The privacy of all these individuals would be violated by disclosure of these documents.

67. The Employees did not waive any privacy or confidentiality protections and continue to maintain these Notices should not be released.

68. Therefore, the Town, through its custodian of records and pursuant to Colo. Rev. Stat. § 24-72-204(6)(a), requests this Court permit the custodian to restrict disclosure of the Notices because the release of the Notices would do substantial injury to the public interest.

III. PRAYER FOR RELIEF

WHEREFORE, the Town respectfully requests that this Court enter an order as follows:

A. Pursuant to CORA, and for the reasons set forth above, schedule a hearing on the matter at the earliest practical time pursuant to Colo. Rev. Stat. § 24-72-204(6)(a);

B. Following the hearing, permit the Town, through its custodian of records, to restrict disclosure of the Notices pursuant to the personnel file exemption under Colo. Rev. Stat. § 24-72-204(3)(a)(II) and/or the deliberative process privilege as codified by Colo. Rev. Stat. § 24-72-204(3)(a)(XIII);

C. In the alternative, following the hearing, permit the Town, through its custodian of records, to restrict disclosure of the Notices because the release of such records would do substantial injury to the public interest within the meaning of Colo. Rev. Stat. §24-72-204(6)(a);

D. If the Court determines it appropriate to review the Notices, the Town shall provide the same for *in camera* review; and

E. For such other relief the Court determines appropriate under CORA.

RESPECTFULLY SUBMITTED this 22 day of July 2026.

**HOFFMANN, PARKER, WILSON &
CARBERRY, P.C.**

By:



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